



U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

File:

Office: VERMONT SERVICE CENTER Date:

AUG 29 2000

IN RE: Petitioner:

Beneficiary:

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF PETITIONER: SELF-REPRESENTED

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

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FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Terrance M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a once-divorced native of [REDACTED] and a naturalized citizen of the United States. The beneficiary is a native and citizen of [REDACTED] who has never married. The director determined that the petitioner had not established that she and the beneficiary had personally met within two years prior to the petition's filing date, December 14, 1998.

On appeal, the petitioner states that she is in love with her fiancé and intends to marry him. She submits a written statement by the tribal headman stating that she and her fiancé have been customarily engaged to each other since before she left West Africa.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), provides nonimmigrant classification to the fiancée or fiancé of a U.S. citizen who intends to conclude a valid marriage with that citizen within 90 days after entry. The Service must review the information and evidence in the record and determine that the parties intend to enter into a bona fide marriage.

According to section 214(d) of the Act, 8 U.S.C. 1184(d), the petitioner must establish that he and the beneficiary have met in person within two years immediately preceding the filing date of the petition. The record in the case at hand reflects that this has not occurred. Nevertheless, this requirement may be waived as a matter of discretion.

According to 8 C.F.R. 214.2(k)(2), the petitioner may be exempted from the requirement for meeting if it is established that compliance would:

- (1) Result in extreme hardship to the petitioner; or
- (2) Violate strict and long-established customs of the beneficiary's foreign culture or social practice.

It is noted that the statute requires that a meeting between the petitioner and the beneficiary take place within the two-year period prior to the filing of the petition. The record shows that the petitioner and the beneficiary planned to marry a few years ago, but the marriage was delayed due to the turmoil in Sierra Leone. She states that her fiancé has managed to flee Sierra Leone and has sought refuge in Guinea where he has been residing since February 1998. No claims have been made regarding hardship or a violation of long-established customs of the beneficiary's foreign

culture or social practice which have prevented the couple from personally meeting during the two years immediately preceding the filing date of the visa petition. It is concluded the petitioner has not provided adequate reasons why the two-year requirement stipulated by law should be waived.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 C.F.R. 1361. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.